

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

PS FUNDING, INC.,

Plaintiff,

vs.

Case No. 18-CV-1145

COZY ROCK, LLC

Defendant.

Defendant Cozy Rock, LLC, by its attorneys Gimbel, Reilly, Guerin & Brown LLP, responds to plaintiff's third amended complaint as follows.

1. Answering paragraph 1 of the complaint, defendant is without information sufficient to form a belief as to the allegations contained therein, and, therefore, denies the same.

2. Answering paragraph 2 of the complaint, defendant admits.

3. Answering paragraph 3 of the complaint, defendant admits that Kristin Terese Pochowski is a member of Cozy Rock, LLC, but denies that Kristin Terese Pochowski is a defendant in this action because all claims against her were dismissed by the Court.

4. To the extent that paragraph 4 of plaintiff's complaint asserts legal conclusions, no answer is required. Defendant denies the remaining allegations and put plaintiff to its proof.

5. To the extent that paragraph 5 of plaintiff's complaint asserts legal conclusions, no answer is required. Defendant denies the remaining allegations and put plaintiff to its proof.

6. Answering paragraph 6 of the complaint, defendant admits that the subject property address is as stated, but denies that the Plaintiff has adequately stated its legal description.

7. Answering paragraph 7 of the complaint, defendant admits that Cozy Rock, LLC owns the subject property and that a deed was recorded to that effect, but defendant is without information sufficient to form a belief as to the remaining allegations contained in paragraph 7 of the complaint and, therefore, denies the same.

8. Answering paragraph 8 of the complaint, defendant admits that Exhibit B is attached to the complaint, and that the document speaks for itself; defendant is without information sufficient to form a belief as to the remaining allegations contained in paragraph 8 of the complaint and, therefore, denies the same.

9. Answering paragraph 9 of the complaint, defendant admits that Exhibit C is attached to the complaint, and that the document speaks for itself; defendant is without information sufficient to form a belief as to the remaining allegations contained in paragraph 9 of the complaint and, therefore, denies the same.

10. Answering paragraph 10 of the complaint, defendant admits that Exhibit C is attached to the complaint, and that the document speaks for itself; defendant is without information sufficient to form a belief as to the remaining allegations contained in paragraph 10 of the complaint and, therefore, denies the same.

11. Answering paragraph 11 of the complaint, defendant denies.

12. Answering paragraph 12 of the complaint, defendant is without information sufficient to form a belief as to the allegations contained therein, and, therefore, denies the same.

13. Answering paragraph 13 of the complaint, defendant is without information sufficient to form a belief as to the allegations contained therein, and, therefore, denies the same.

14. Answering paragraph 14 of the complaint, defendant is without information sufficient to form a belief as to the allegations contained therein, and, therefore, denies the same.

15. Answering paragraph 15 of the complaint, defendant denies.

16. To the extent that paragraph 16 of plaintiff's Complaint asserts legal conclusions, no answer is required. Defendant denies the remaining allegations and put plaintiff to its proof.

RESPONSE TO COUNT I: FORECLOSURE

17. Defendant hereby realleges and incorporates by reference as if fully set forth herein each and every allegation contained in paragraphs 1-16 of this answer.

18. To the extent that paragraph 18 of plaintiff's complaint asserts legal conclusions, no answer is required. Defendant denies the remaining allegations and put plaintiff to its proof.

RESPONSE TO COUNT II: ORDER FOR POSSESSION

19. Defendant hereby realleges and incorporates by reference as if fully set forth herein each and every allegation contained in paragraphs 1-18 of this answer.

20. To the extent that paragraph 20 of plaintiff's complaint asserts legal conclusions, no answer is required. Defendant denies the remaining allegations and put plaintiff to its proof.

21. Answering paragraph 21 of the complaint, defendant admits.

AFFIRMATIVE DEFENSES

1. Plaintiff has failed to state a claim upon which relief can be granted.
2. Plaintiff's claims are barred by the statute of limitations.
3. Plaintiff's claims are barred under the doctrine of unjust enrichment.
4. Plaintiff's claims are barred by laches.
5. Plaintiff's claims are barred under the doctrine of unclean hands.
6. Plaintiff's claims may be barred by failure of one or more conditions precedent, accord and satisfaction, estoppel, want of consideration, payment, release, superseding cause, and/or waiver.
7. Plaintiff has failed to mitigate its damages, if any.
8. Defendant further reserve the right to amend its answer to the complaint as more information becomes known to defendant.

WHEREFORE, defendant Cozy Rock, LLC demands judgment dismissing plaintiff's complaint with prejudice, denying plaintiff's request for judgment, and attorney's fees and costs, his costs, disbursements and such other relief as the Court deems just and equitable.

Dated this 26th day of March, 2018.

GIMBEL, REILLY, GUERIN & BROWN LLP

By:

/s/Russell J. Karnes

RUSSELL J. KARNES

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